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May 12th, 1959COCOM Document No. 2869.93COORDINATING COMMITTEE*J. General*RECORD OF DISCUSSIONONREVIEW OF THE STRATEGIC EXPORT CONTROLS - EXCEPTIONS PROCEDURESMay 4th, 1959

Present: Belgium (Luxembourg), Denmark, France, Germany, Italy, Japan, Netherlands, Turkey, United Kingdom, United States.

References: CH/1547, COCOM 471 (Revised), 1347, 1473, 2869.5, 2869.13, 2869.55, 2869.62, 2869.75, 2869.77, 2869.79, 2869.81, 2869.83, 2869.86, 2869.88, 2869.89, 2869.92, 3230, 3338, Secretariat Paper No. 104.

Procedure for submission of exceptions (Secretariat Paper No. 104, paragraphs 4 - 10)

1. The CHAIRMAN invited Delegates to give the views of their authorities on the United Kingdom proposal concerning a second round of discussion (Annex to COCOM 2869.62, paragraph 6(b)).

2. The GERMAN Delegate recalled that at the previous meeting (COCOM 2869.92, paragraph 11) he had expressed his authorities' agreement in principle but had explained that they were reluctant to make an addition to the present text as reproduced in paragraph 9 of Secretariat Paper No. 104.

3. The UNITED STATES Delegate said that he shared the opinion expressed by the German Delegate that there would appear to be no objection in principle to the United Kingdom proposal but that the proposed addition of this paragraph would appear to be unnecessary.

4. The CHAIRMAN then referred to paragraphs 4 and 10 of Secretariat Paper No. 104, which concerned the Guide for the submission of exceptions requests (Annex B to COCOM 471 (Revised)). He observed that the Guide, if maintained, would have to be extensively revised and pointed out that it had not been used by Member Governments when submitting exceptions requests. He suggested therefore that the last lines of paragraph 4 of Secretariat Paper No. 104 should be amended as follows:

"... until the Committee had met to consider a full written statement containing all necessary details meeting the requirements of the Committee's principles and procedures for exceptions to security controls.

If this were found acceptable paragraph 10 could be deleted.

5. All Delegations agreed to refer the Chairman's suggestion back to their authorities.

Part B General Principle (Secretariat Paper No. 104, paragraph 11).

6. The UNITED KINGDOM Delegate proposed that paragraphs 11 and 12 of Secretariat Paper No. 104 could best be incorporated as an Annex to the final document, with the following introductory wording:

"The following general principles should apply to the handling of exceptions under parts B ("de minimis" cases), C (servicing cases) and D (accident of definition cases)."

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He further proposed that the phrase "List I items" in paragraphs 11(c) and (d) should be changed to "embargoed items".

7. The GERMAN Delegate proposed that the first sentence in paragraph 11(e) should be deleted and the second sentence amended as follows:

"Evidence of harmless end-use is one of the factors which should be taken into account provided no advanced technical know-how in the sense of criterion (b) is involved."

He stated that when the provisions of COCOM 1473 were drawn up it was more difficult than today to get proof of the end-use to which the item was to be put. Now, however, in certain cases reliable information on the end-use could be obtained, e.g. supplies for Western airlines, installation of equipment by Western engineers on the spot, and similar cases. The German authorities, therefore, felt that greater importance than formerly should be attributed in future to the evidence of harmless end-use when considering an exception case.

8. The UNITED STATES Delegate said that he was unable to agree to the deletion of the first sentence of paragraph 11(e). He would, however, report the German proposal to his Government.

9. The FRENCH Delegate accepted the German proposal.

10. The JAPANESE Delegate suggested that for ease of reference the text of criterion (b) should be included. This might conveniently be done in a footnote.

11. The CHAIRMAN summed up the discussion by saying that Delegates should try to obtain the views of their authorities on the following four points:

- (a) His own proposal concerning a Guide (see paragraph 4 above);
- (b) The United Kingdom proposal concerning the introduction to paragraph 11 (see paragraph 6 above);
- (c) The United Kingdom proposal to substitute the word "embargoed" for "List I" in sub-paragraphs 11(c) and (d) (see paragraph 6 above);
- (d) The German proposal concerning paragraph 11(e), with or without the first sentence of that paragraph (see paragraph 7 above).

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